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From: Matthiessen, Craig
Sent: Thur 3/13/2014 12:15:55 PM
Subject: FW: Senate Democrats Push For IST But EPA Official Declines To State Path

FYI from Inside EPA

From: Cogliano, Gerain
Sent: Thursday, March 13, 2014 7:05 AM
To: Jennings, Kim; Belke, Jim
Cc: Matthiessen, Craig; Beasley, Lynn
Subject: Senate Democrats Push For IST But EPA Official Declines To State Path

Just in case you haven't seen this...

Daily News

Senate Democrats Push For IST But EPA Official Declines To State Path

Posted: March 12, 2014

EPA waste chief Mathy Stanislaus declined at a March 6 Senate Environment and Public Works Committee (EPW) hearing to commit the agency to mandating the use of inherently safer technologies (IST) to prevent or reduce the consequences of accidents or attacks at industrial facilities despite strong urging from several Democratic senators.

"Federal safety and health officials must use all available tools to protect the health and safety of people working in and living near chemical facilities," EPW Chairman Barbara Boxer (D-CA) said during the hearing, scheduled to review federal agencies' progress toward implementing President Obama's executive order on improving the safety and security of the nation's industrial plants.

She said EPA has existing authority the agency ought to be using to require IST, and added, "We need a regimen in place, of good practices, that are followed."

Environmentalists, labor officials and the Chemical Safety Board (CSB) have been urging EPA to use existing authority under section 112(r) of the Clean Air Act to require facilities to use IST -- usually alternate chemicals or process changes advocates say can prevent accidents or reduce the consequences of an attack.

President Obama issued Executive Order (EO) 13650 Aug. 1 in response to the April 17 explosion at a fertilizer facility in West, TX, that killed 15 people and injured roughly 200 others. The order tasked federal agencies

including EPA, the Department of Homeland Security (DHS), the Occupational Safety and Health Administration and others with improving coordination between government, industry and first-responders, as well as with modernizing policies, rules and standards.

During the March 6 hearing, Stanislaus acknowledged that IST can prevent disasters at industrial facilities, though he declined to say whether EPA and the inter-agency working group tasked with implementing Obama's order would take that step.

"The president called on us to look at this issue, and we are examining that," Stanislaus said, adding, "We agree IST, as part of a broad process safety program, will in fact reduce risk." Stanislaus also said the inter-agency working group is considering IST, and how a federal IST program might be implemented.

But when pressed on specific regulatory changes -- such as using Clean Air Act authority to require IST or the CSB's 2002 call to add ammonium nitrate and other reactive chemicals to EPA's Risk Management Plan (RMP) reporting program -- Stanislaus said answers to those questions would come when the working group provides recommendations to Obama in late May. The RMP program requires industrial facilities to report hazardous chemicals to EPA, assess potential risks and take safety precautions to reduce risks from potential releases.

Sen. Ed Markey (D-MA) argued that safer chemicals and processes are available to prevent disasters, and he urged Stanislaus to specify how the inter-agency working group will incorporate IST into plans to protect industrial plants.

Sen. Tom Udall (D-NM) said it is encouraging that the working group included IST in a list of Jan. 3 policy options, and commented, "This is really the direction we need to move in."

IST Assessments

CSB Chairman Rafael Moure-Eraso testified that safety measures resulting from IST assessments could have prevented recent disasters including a 2012 fire at a Chevron oil refinery in Richmond, CA, contamination of drinking water near Charleston, WV, and the explosion in West, TX.

At the Chevron refinery, a pipe rupture and subsequent release of flammable hydrocarbon process fluid caused a vapor cloud and fire that endangered 19 workers and sent 15,000 community members to the hospital. In West Virginia, the release of 7,500 gallons of coal-cleaning chemical 4-methylcyclohexane methanol (MCHM) and another substance, a mixture of glycol ethers known as PPH, from an above-ground tank contaminated the Elk River, leaving businesses and residences reliant on bottled water.

Moure-Eraso said IST assessments would have detected weak materials at the California refinery and in the West Virginia tank leak. He also said safer storage and lower quantities of ammonium nitrate in West could have prevented or reduced the consequences of that explosion. Additionally, Moure-Eraso said that the siting of above-ground storage tanks also would be a factor considered during an IST assessment, which could have also helped prevent the contamination of drinking water in West Virginia.

Sen. David Vitter (R-LA) questioned Moure-Eraso on whether EPA inspectors have the expertise to monitor an IST program, noting that the CSB chairman had testified that inspections are insufficient to prevent accidents.

Moure-Eraso responded that EPA has sufficient expertise but would likely need additional resources.

Stanislaus, while hedging on whether EPA will use Clean Air Act authority to require IST, emphasized other steps the working group is taking or considering to strengthen industrial plant safety and security. Stanislaus said DHS and EPA have compared data to identify facilities that have not submitted information under either EPA's RMP program or DHS' Chemical Facilities Anti-Terrorism Standards program.

Stanislaus also said an Oklahoma state plan to map facility locations and better coordinate with first responders is

something that the federal working group is considering.

But Boxer questioned why EPA is taking so long to act. She noted that last summer, she called on EPA to add ammonium nitrate and other reactive chemicals to the agency's RMP reporting program but that the agency still has not taken that step.

"I don't know why this is taking you so long to figure that out," she told Stanislaus. "I don't understand why you wouldn't do it given all the deaths that we've seen."

Stanislaus said the federal working group would decide that question in its recommendations to Obama due in late May. -- *Dave Reynolds* (dreynolds@iwpnews.com This e-mail address is being protected from spambots. You need JavaScript enabled to view it)